

This note is the first of 3 promissory notes for an equal amount, signed by defendants, and said to represent the price of a Percheron stallion purchased from the payees of the note, through their agent, George H. L. Watterworth.

Defendants plead non fecerunt; that plaintiff is not a holder for value; that defendant agreed to take shares in the horse then in possession of Watterworth as agent for Hamilton and Hawthorne, said shares as a matter of form being fixed at \$200 each, and that the horse was to be left in possession of defendant Robert Quaid, and the price was to be paid out of the earnings of the horse, 33 per cent. whereof each year was to be handed over to Hamilton & Hawthorne until the horse in that way paid for himself.

Hamilton & Hawthorne deposited in the Molsons Bank at Ridgelytown the above notes and others aggregating \$60,000, being what are called syndicate notes or notes given by several persons who had joined in the purchase of stallions from them. Such of these as plaintiff wished to purchase were offered by Hamilton to him, and he made a selection of \$20,000 of the notes, for which he, on 21st September, 1905, paid \$17,850. He is a holder in due course.

Robert Quaid is a farmer . . . and defendants Burt, Albert, and Fred Quaid are his sons; John Quaid is his nephew; and James Scott is a farmer.

Robert, Burt, and Fred Quaid were examined for discovery on 29th September, 1906, and there was at that time an inclination on the part of each to deny his signature to the note. Robert said it looked like his signature; thought it was his signature; but he never signed a note, and what he did sign was a paper about 18 inches long, which Watterworth represented as an agreement whereby they were to have the use of the horse for 3 years, and were to give 33 per cent. of what the horse made during that time, when they were to become the owners of it. When asked if he signed more than one document, he answered: "I think we signed three of these agreements for one, two, and three years." When shewn the note, he said: "The writing part was not there, but whether I looked it over or not I can't say, but I was listening to him as I am to you now. He